

By the Committee on Comprehensive Planning, Local and Military Affairs; and Senator Diaz de la Portilla

316-1780-00

1 A bill to be entitled
 2 An act relating to the Florida Airport
 3 Authority Act; creating ss. 332.201, 332.202,
 4 332.203, 332.204, 332.205, 332.206, 332.207,
 5 332.208, 332.209, 332.210, 332.211, F.S., the
 6 Florida Airport Authority Act; providing
 7 definitions; providing that a county or
 8 contiguous counties may form an airport
 9 authority; providing for appointment of members
 10 of the governing body of an authority;
 11 providing for officers, employees, expenses,
 12 removal from office, and application of
 13 financial disclosure provisions; providing
 14 purposes and powers of an authority; providing
 15 restrictions on authority powers; providing for
 16 issuance of bonds; providing that the county
 17 may be appointed as an authority's agent for
 18 construction; providing for acquisition of
 19 lands and property; providing for cooperation
 20 with other units, boards, agencies, and
 21 individuals; providing a covenant of the state
 22 with respect to bond issuance and agreements
 23 with federal agencies; providing an exemption
 24 from taxation; providing for applicability;
 25 providing an effective date.

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 27 Be It Enacted by the Legislature of the State of Florida:

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 29 Section 1. Sections 332.201, 332.202, 332.203,
 30 332.204, 332.205, 332.206, 332.207, 332.208, 332.209, 332.210,
 31 and 332.211, Florida Statutes, are created to read:

1 332.201 Short title.--Sections 332.201-332.211 may be
2 cited as the "Florida Airport Authority Act."

3 332.202 Definitions.--As used in this act:

4 (1) "Agency of the state" means and includes the state
5 and any department of, or corporation, agency, or
6 instrumentality created, designated, or established by, the
7 state.

8 (2) "Airport" means any area of land or water, or any
9 manmade object or facility located therein, which is used, or
10 intended for public use, for the landing and takeoff of
11 aircraft, and any appurtenant areas which are used, or
12 intended for public use, for airport buildings or other
13 airport facilities or rights-of-way.

14 (3) "Airport system" means any and all airports within
15 the geographic boundaries of an airport authority established
16 pursuant to this act and appurtenant facilities thereto,
17 including, but not limited to, all approaches, roads, bridges,
18 and avenues of access for such airport.

19 (4) "Authority" means an airport authority established
20 pursuant to this act which is a body politic and corporate and
21 a public instrumentality.

22 (5) "Bonds" means and includes the notes, bonds,
23 refunding bonds, or other evidences of indebtedness or
24 obligations, in either temporary or definitive form, which an
25 authority issues pursuant to this act.

26 (6) "Department" means the Department of
27 Transportation.

28 (7) "Division" means the Division of Bond Finance of
29 the State Board of Administration.

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1 (8) "Express written consent" means prior express
2 written consent given in the form of a resolution adopted by a
3 board of county commissioners.

4 (9) "Federal agency" means and includes the United
5 States, the President of the United States, and any department
6 of, or corporation, agency, or instrumentality created,
7 designated, or established by, the United States.

8 332.203 Airport authority; formation; membership.--

9 (1) Any county, or two or more contiguous counties,
10 may, by resolution adopted by the board of county
11 commissioners, form an airport authority, which shall be an
12 agency of the state, pursuant to this act.

13 (2) The governing body of an authority shall consist
14 of not fewer than five nor more than nine voting members. The
15 district secretary of the affected department district shall
16 serve as a nonvoting member of the governing body of each
17 authority located within the district. Each member of the
18 governing body must at all times during his or her term of
19 office be a permanent resident of the county which he or she
20 is appointed to represent.

21 (a) Two members of the governing body shall be
22 appointed for terms of 4 years by the Governor, subject to
23 confirmation by the Senate. Such persons may not hold elective
24 office during their terms of office.

25 (b) For a single-county authority, the remaining
26 members shall be appointed by the board of county
27 commissioners for terms of 3 years.

28 (c) For a multicounty authority, the remaining members
29 shall be apportioned, based on the population of such
30 counties, among the counties within the authority. Each such
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1 member shall be appointed by the applicable board of county
2 commissioners for a term of 3 years.

3 (3)(a) The governing body of each authority shall
4 elect one of its members as its chair and shall elect a
5 secretary and a treasurer, who need not be members of the
6 authority. The chair, secretary, and treasurer shall hold
7 their offices at the will of the governing body. A simple
8 majority of the governing body constitutes a quorum, and the
9 vote of a majority of those members present is necessary for
10 the governing body to take any action. A vacancy on a
11 governing body shall not impair the right of a quorum of the
12 governing body to exercise all of the rights and perform all
13 of the duties of the authority.

14 (b) Upon the effective date of his or her appointment,
15 or as soon thereafter as practicable, each appointed member of
16 a governing body shall enter upon his or her duties.

17 (4)(a) An authority may employ an executive secretary,
18 an executive director, its own counsel and legal staff,
19 technical experts, and such engineers and employees, permanent
20 or temporary, as it may require and shall determine the
21 qualifications and fix the compensation of such persons,
22 firms, or corporations. An authority may employ a fiscal agent
23 or agents; however, the authority must solicit sealed
24 proposals from at least three persons, firms, or corporations
25 for the performance of any services as fiscal agent. An
26 authority may delegate to one or more of its agents or
27 employees such of its power as it deems necessary to carry out
28 the purposes of this act, subject always to the supervision
29 and control of the authority.

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1 (b) Members of the governing body of an authority may
2 be removed from office by the Governor for misconduct,
3 malfeasance, misfeasance, or nonfeasance in office.

4 (c) Members of the governing body of an authority are
5 entitled to receive from the authority their travel and other
6 necessary expenses incurred in connection with the business of
7 the authority as provided in s. 112.061, but they may not draw
8 salaries or other compensation.

9 (d) Members of the governing body of an authority
10 shall be required to comply with the applicable financial
11 disclosure requirements of ss. 112.3145, 112.3148, and
12 112.3149.

13 332.204 Purposes and powers.--

14 (1)(a) An authority created and established pursuant
15 to this act may acquire, hold, construct, improve, maintain,
16 operate, own, and lease an airport system.

17 (b) Construction of an airport system may be completed
18 by an authority in segments, phases, or stages, in a manner
19 which will permit the expansion of these segments, phases, or
20 stages to the desired airport configuration. Each authority,
21 in the construction of an airport system, may construct any
22 extensions of, additions to, or improvements to, the airport
23 system or appurtenant facilities, including all necessary
24 approaches, roads, bridges, and avenues of access, with such
25 changes, modifications, or revisions of the project that are
26 deemed desirable and proper. An authority may only add
27 additional airports to an airport system, under the terms and
28 conditions set forth in this act, with the prior express
29 written consent of the board of county commissioners of each
30 county located within the geographic boundaries of the
31 authority, and only if such additional airports are

1 financially feasible, and are compatible with the existing
2 plans, projects, and programs of the authority.

3 (2) Each authority may exercise all powers necessary,
4 appurtenant, convenient, or incidental to the carrying out of
5 its purposes, including, but not limited to, the following
6 rights and powers:

7 (a) To sue and be sued, implead and be impleaded, and
8 complain and defend in all courts.

9 (b) To adopt, use, and alter at will a corporate seal.

10 (c) To acquire, purchase, hold, lease as lessee, and
11 use any franchise or property, real, personal, or mixed,
12 tangible or intangible, or any interest therein necessary or
13 desirable for carrying out the purposes of the authority and
14 to sell, lease as lessor, transfer, and dispose of any
15 property or interest therein at any time acquired by it.

16 (d) To enter into and make leases, either as lessee or
17 as lessor, in order to carry out the right to lease as set
18 forth in this act.

19 (e) To fix, alter, charge, establish, and collect
20 rates, fees, rentals, and other charges for the services and
21 facilities of the airport system, which rates, fees, rentals,
22 and other charges must always be sufficient to comply with any
23 covenants made with the holders of any bonds issued pursuant
24 to this act.

25 (f) To borrow money, make and issue negotiable notes,
26 bonds, refund bonds and other evidence of indebtedness, either
27 in temporary or definitive form, of the authority, which bonds
28 or other evidence of indebtedness may be issued pursuant to
29 the State Bond Act, to finance an airport system within the
30 geographic boundaries of the authority, and to provide for the
31 security of the bonds or other evidence of indebtedness and

1 the rights and remedies of the holders of the bonds or other
2 evidence of indebtedness. Any bonds or other evidence of
3 indebtedness pledging the full faith and credit of the state
4 shall only be issued pursuant to the State Bond Act.

5 (g) To enter into contracts and to execute all
6 instruments necessary or convenient for the carrying on of its
7 business.

8 (h) Without limitation of the foregoing, to borrow
9 money and accept grants from, and to enter into contracts,
10 leases, or other transactions with, any federal agency, the
11 state, any agency of the state or county, or any other public
12 body of the state.

13 (i) To have the power of eminent domain, including the
14 procedural powers granted under chapters 73 and 74.

15 (j) To pledge, hypothecate, or otherwise encumber all
16 or any part of the revenues, rates, fees, rentals, or other
17 charges or receipts of the authority, as security for all or
18 any of the obligations of the authority.

19 (k) To do all acts and things necessary or convenient
20 for the conduct of its business and the general welfare of the
21 authority in order to carry out the powers granted to it by
22 law.

23 (l) An airport authority may consider any unsolicited
24 proposals from private entities and all factors it deems
25 important in evaluating such proposals. The airport authority
26 shall adopt rules or policies in compliance with s. 334.30 for
27 the receipt, evaluation, and consideration of such proposals
28 in order to enter into agreements for the planning design,
29 engineering, construction, operation, ownership, or financing
30 of its airport system. Such rules must require substantially
31 similar technical information as is required by Rule

1 14-107.0011(3)(a)-(e), Florida Administrative Code. In
2 accepting a proposal and entering into such an agreement, the
3 airport authority and the private entity shall for all
4 purposes be deemed to have complied with chapters 255 and 287.
5 Similar proposals shall be reviewed and acted on by the
6 authority in the order in which they were received. An
7 additional airport may only be constructed under this
8 paragraph with state and federal approval, and with the prior
9 express written consent of the board of county commissioners
10 of each county located within the geographical boundaries of
11 the authority.

12 (3) Any provision of law to the contrary
13 notwithstanding, the consent of any municipality is not
14 necessary for any project of an existing or new authority,
15 whether or not the project lies in whole or in part within the
16 boundaries of the municipality, if the project is consistent
17 with the locally adopted comprehensive plan and the statewide
18 aviation system plan. However, if a project is inconsistent
19 with the affected municipal comprehensive plan, the project
20 may not proceed without a hearing pursuant to ss. 120.569 and
21 120.57, at which it is determined that the project is
22 consistent with the statewide aviation system plan and the
23 applicable strategic regional plan, and at which it is
24 determined that regional interests clearly override the
25 interests of the municipality.

26 (4) The use or pledge of any portion of county tax
27 funds may not be made without the prior express written
28 consent of the board of county commissioners of each county
29 located within the geographic boundaries of the authority.

30 (5) Any authority formed pursuant to this act shall
31 comply with all statutory requirements of general application

1 which relate to the filing of any report or documentation
2 required by law, including the requirements of ss. 189.4085,
3 189.415, 189.417, and 189.418.

4 (6) No airport authority shall undertake any
5 construction that is not consistent with federal aviation
6 requirements, the statewide aviation system plan, and the
7 county's comprehensive plan.

8 (7) The governing body of the county may enter into an
9 interlocal agreement with an authority pursuant to chapter 163
10 for the joint performance or performance by either
11 governmental entity of any corporate function of the county or
12 authority necessary or appropriate to enable the authority to
13 fulfill the powers and purposes of this act and promote the
14 efficient and effective transportation of persons and goods in
15 such county.

16 332.205 Bonds.--With the prior express written consent
17 of the board of county commissioners of each county located
18 within the geographic boundaries of an authority, bonds may be
19 issued on behalf of an authority as provided by the State Bond
20 Act.

21 332.206 County may be appointed agent of authority for
22 construction.--The county may be appointed by the authority as
23 its agent for the purpose of constructing improvements to an
24 airport system and for the completion thereof. In such event,
25 the authority shall provide the county with complete copies of
26 all documents, agreements, resolutions, contracts, and
27 instruments relating thereto; shall request the county to do
28 such construction work, including the planning, surveying, and
29 actual construction of the completion and improvements to the
30 airport system; and shall transfer to the credit of an account
31 of the county the necessary funds therefor.

1 332.207 Acquisition of lands and property.--
2 (1) For the purposes of this act, an airport authority
3 may acquire private or public property and property rights,
4 including rights of access, air, view, and light, by gift,
5 devise, purchase, or condemnation by eminent domain
6 proceedings, as the authority may deem necessary for any of
7 the purposes of this act, including, but not limited to, any
8 lands reasonably necessary for securing applicable permits,
9 areas necessary for management of access, borrow pits,
10 drainage ditches, water retention areas, replacement access
11 for landowners whose access is impaired due to the improvement
12 of an airport system, and replacement rights-of-way for
13 relocated rail and utility facilities; or for existing,
14 proposed, or anticipated transportation facilities within the
15 airport system. The authority may also condemn any material
16 and property necessary for such purposes.
17 (2) The right of eminent domain conferred by this act
18 must be exercised by an authority in the manner provided by
19 law.
20 (3) When an authority acquires property for an airport
21 system it is not subject to any liability imposed by chapter
22 376 or chapter 403 for preexisting soil or groundwater
23 contamination due solely to its ownership. This subsection
24 does not affect the rights or liabilities of any past or
25 future owners of the acquired property nor does it affect the
26 liability of any governmental entity for the results of its
27 actions which create or exacerbate a pollution source. An
28 authority and the Department of Environmental Protection may
29 enter into interagency agreements for the performance,
30 funding, and reimbursement of the investigative and remedial
31 acts necessary for property acquired by the authority.

1 332.208 Cooperation with other units, boards,
2 agencies, and individuals.--Express authority and power is
3 given and granted to any county, municipality, drainage
4 district, road and bridge district, school district, or other
5 political subdivision, board, commission, or individual in or
6 of this state to enter into contracts, leases, conveyances, or
7 other agreements within the provisions and purposes of this
8 act with an authority. An authority may enter into contracts,
9 leases, conveyances, and other agreements, to the extent
10 consistent with this chapter and chapters 330, 331, and 333
11 and other provisions of the laws of the state, with any
12 political subdivision, agency, or instrumentality of the state
13 and any federal agency, corporation, and individual, for the
14 purpose of carrying out the provisions of this act.

15 332.209 Covenant of the state.--The state does hereby
16 pledge to, and agrees with, any person, firm, corporation, or
17 federal or state agency subscribing to or acquiring the bonds
18 to be issued by an authority for the purposes of this act that
19 the state will not limit or alter the rights hereby vested in
20 an authority and the department until all bonds at any time
21 issued, together with the interest thereon, are fully paid and
22 discharged, insofar as the same affects the rights of the
23 holders of bonds issued hereunder. The state does further
24 pledge to, and agrees with, the United States that, in the
25 event any federal agency constructs, or contributes any funds
26 for the completion, extension, or improvement of, an airport
27 system or any part or portion thereof, the state will not
28 alter or limit the rights and powers of an authority and the
29 department in any manner which would be inconsistent with the
30 continued maintenance and operation of the airport system or
31 the completion, extension, or improvement thereof or which

1 would be inconsistent with the due performance of any
2 agreement between the authority and any such federal agency,
3 and the authority and the department shall continue to have
4 and may exercise all powers granted so long as the same shall
5 be necessary or desirable for carrying out the purposes of
6 this act and the purposes of the United States in the
7 completion, extension, or improvement of the airport system or
8 any part or portion thereof.

9 332.210 Exemption from taxation.--The effectuation of
10 the authorized purposes of an airport authority is in all
11 respects for the benefit of the people of the state, for the
12 increase of their commerce and prosperity, and for the
13 improvement of their health and living conditions. For this
14 reason, an authority is not required to pay any taxes or
15 assessments of any kind or nature whatsoever upon any property
16 acquired by it or used by it for such purposes or upon any
17 revenues at any time received by it. The bonds issued by or on
18 behalf of an authority, their transfer, and the income
19 therefrom, including any profits made on the sale thereof, are
20 exempt from taxation of any kind by the state or by any
21 political subdivision or other taxing agency or
22 instrumentality thereof. The exemption granted by this section
23 does not apply to any tax imposed under chapter 220 on
24 interest, income, or profits on debt obligations owned by
25 corporations.

26 332.211 Exemption from applicability.--This act does
27 not apply in a county in which an authority has been created
28 pursuant to a general or special act of the Legislature for
29 the purpose of owning, building, or operating an airport.

30 Section 2. This act shall take effect July 1, 2000.

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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 SB 1736
4 Creates the "Florida Airport Authority Act."
5 Authorizes a county or two or more contiguous counties to
6 create an airport authority by resolution.
7 Provides for the membership of the governing body, the
8 selection of a chair, the staffing of the authority, and
9 requires members to comply with financial disclosure
10 requirements.
11 Grants an airport authority created under the act the powers
12 to construct an airport system, collect fees, borrow money,
13 issue bonds, enter into contracts, and exercise the power of
14 eminent domain.
15 Provides that if an airport authority project is inconsistent
16 with a municipal comprehensive plan, a chapter 120, F.S.,
17 administrative hearing must be conducted where it is
18 determined that the project is consistent with the statewide
19 aviation system plan and strategic regional plan and that
20 regional interests override municipal interests.
21 Exempts an airport authority created under the act from
22 liability, due solely to its ownership, for preexisting soil
23 or groundwater contamination on property acquired by the
24 authority.
25 Contains a covenant of the state, for bonding purposes, not to
26 limit rights vested in an authority until bonds are issued,
27 paid and discharged.
28 Exempts an airport authority created under the act from taxes
29 and assessments on any property used by the authority or
30 revenue received by the authority. Bonds issued on behalf of
31 the authority, including profits from the sale, are exempt
 from state or local taxation.
 The act does not apply to counties where an airport authority
 has been created by general or special act of the Legislature.